MDR: M4-02-2723-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 8-13-01.
   b. The request was received on 3-26-02.

II. EXHIBITS

1. Requestor, Exhibit I:
   a. TWCC 60 and Letter Requesting Dispute Resolution
   b. HCFA
   c. TWCC 62
   d. Example EOBs
   e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

2. Respondent, Exhibit II:
   No response noted in the dispute packet.

3. Based on Commission Rule 133.307 (g) (4), the Division notified the insurance carrier Austin Representative of their copy of the requestor's 14 day response on 6-24-02. The Respondent did not submit a response to the request. The "No Response Submitted" sheet is reflected in Exhibit 2 of the Commission's case file.

4. Notice of A letter Requesting Additional Information is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 6-12-02:
   "We have submitted a claim to the Carrier for date of service 08-31-01 for a Jeanie massager in the amount of $250.00 and for an accessory kit for the massager in the amount of $139.00…. The disputed issue is that the Carrier originally paid $200.00 for the Jeanie Massager and $111.20 for the accessory kit stating F the procedure code is reimbursed based on the medical fee schedule…. The expected out come of this issue is that we feel the claims should be paid in full. In accordance with DME Ground Rules Section IX c states invoices should be billed at the provider's usual and customary rate."

2. Respondent: No response noted in the dispute packet.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 8-13-01.

2. The carrier denied the billed services as reflected on the EOB as "FEES – F – THE PROCEDURE CODE IS REIMBURSED BASED ON THE MEDICAL FEE SCHEDULE. IF ONE IS NOT MANDATED, THE UCR ALLOWANCE IS REIMBURSED FOR THE ZIP CODE AREA."

3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB	MAR$	REFERENCE	RATIONALE:
8-13-01	E1399 Genie Massager	$250.00	$200.00	FEES	DOP	MFG: Durable Medical Equipment (DME) Ground Rule (IX) (C); Rules 133.304 (i) & 133.307 (g) (3) (D);	The Carrier has denied the disputed equipment as, "FEES – F – THE PROCEDURE CODE IS REIMBURSED BASED ON THE MEDICAL FEE SCHEDULE. IF ONE IS NOT MANDATED, THE UCR ALLOWANCE IS REIMBURSED FOR THE ZIP CODE AREA."
8-13-01	E1399 Accessory Kit for Massager	$139.00	$111.20	FEES	DOP	HCPCS Descriptor	Pursuant to TWCC Rule 133.307 (g) (3) (D), the Requestor has submitted example EOBs reflecting that other carriers have reimbursed the amount billed. TWCC Rule 133.304 (i) states, "When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall: (1) develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances received similar reimbursement; (2) explain and document the method it used to calculate the rate of pay, and apply this method consistently; (3) reference its method in the claim file; and (4) explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement." The carrier has reimbursed the provider $311.20 of a $389.00 charge. However, the carrier has failed to support this reimbursement with documentation that discusses, demonstrates and/or justifies that the payment made represents fair and reasonable. The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. However, in this case, the Respondent has failed to support their denial. The requestor has provided EOBs and HCFA 1500s from other carriers to support their position that the amount billed is fair and reasonable Therefore additional reimbursement is recommended in the amount of **$77.80.** ($389.00 billed - $311.20 already paid = $77.80.)
Totals		$389.00	$311.20				The Requestor **is** entitled to additional reimbursement in the amount of **$77.80.**

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit **$77.80** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 18th day of February 2003.

Lesa Lenart
Medical Dispute Resolution Officer
Medical Review Division

LL/ll